

**STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION
A SPECIAL ORDER BY CONSENT
ISSUED TO
SALEM FRAME COMPANY**

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 10.1-1307.D, 10.1-1309, and 10.1-1184, and § 10.1-1316.C, between the State Air Pollution Control Board and Salem Frame Company, for the purpose of resolving certain violations of State Air Pollution Control Laws and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. “Va. Code” means the Code of Virginia (1950), as amended.
2. “Board” means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
3. “Department” or “DEQ” means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. “Director” means the Director of the Department of Environmental Quality.
5. “Order” means this document, also known as a Consent Order.
6. “Salem Frame Company” means the company certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.

7. “Facility” means the structure owned by Salem Frame Company, which is located at 1972 Industrial Drive, Salem, Virginia.
8. “WCRO” means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
9. “Permit” means the Stationary Source Permit, which became effective on March 16, 1998.
10. “O&M” means operations and maintenance.

SECTION C: Findings of Fact and Conclusions of Law

1. Salem Frame Company owns and operates a Facility. This Facility is the subject of the Permit.
2. DEQ has noted apparent violations of the Air Pollution Control Law and Regulations at the Facility. These alleged violations, noted in a Notice of Violation issued by DEQ, on October 3, 2001, include:
 - A. On September 24, 2001, staff observed excess emissions stemming from the Woodwaste-Fired boiler stack at the Facility. Staff conducted a one-hour Visible Emissions Evaluation as per EPA Method 9 specifications. The results of this evaluation indicated that Salem Frame Company had exceeded the 20% opacity limit specified in the Permit. The average opacity readings for these three consecutive six-minute periods were 30%, 37%, and 45%.

The observation above was cited under the following regulation and the applicable Permit Condition:

Permit Condition #7 states that the boiler shall not exceed 20% opacity except during one six-minute period in any one hour in which visible emissions shall not exceed 60% opacity as determined by EPA Method 9.

Section 9 VAC 5-50-20 of the State Air Pollution Control Board Regulations, states that at all times, including periods of startup, shutdown, soot blowing and malfunction, owners shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with air pollution control practices for minimizing emissions.
 - B. Salem Frame Company has taken steps to correct the problems cited in the October 3, 2001 Notice of Violation. Salem Frame Company has shutdown the primary boiler system and has initiated usage of the

secondary boiler system while repairs were being made to the primary system.

- C. On October 22, 2001, Salem Frame Company's representatives met with DEQ staff concerning the aforementioned incident. During this meeting, Salem Frame Company discussed the steps that were being taken and the future steps that would be taken to return the boiler to compliance.
 - D. On January 3, 2002, Salem Frame Company contracted DEECO, Inc. to perform a Stack Emissions Test on the primary boiler system. DEECO, Inc. used the following EPA test methods: 1, 2, 3, 4, 5, and 9.
 - E. Salem Frame Company was issued a Consent Order on January 14, 2002. This Consent Order addressed the aforementioned issues.
2. DEQ has noted additional violations of the Air Pollution Control Law and Regulations at the Facility. These apparent violations, noted in a Notice of Violation issued by DEQ, on February 14, 2002, include:

On February 6, 2002, Salem Frame Company submitted a Stack Emissions Test Report for the January 3, 2002 test event. Upon staff's review of the Stack Emissions Test Report, the Facility tested at the following levels of Particulate Matter: 0.36 lbs./MMBTU, 9.2 lbs./hr, and 40.33 tons/yr.

The observation above is cited under the following regulation and the applicable Permit Condition:

Permit Condition #6 states that the boiler shall not exceed the TSP emissions limits of: 0.23 lbs./MMBTU, 8.1 lbs./hr, and 35.2 tons/yr.

Sections 9 VAC 5-50-180 and 9 VAC 5-50-260 of the State Air Pollution Control Board Regulations, state that no owner or other person shall cause or permit to be discharged into the atmosphere from any affected facility any emissions in excess of that resultant from using best available control technology, as reflected in any condition that may be placed upon the permit approval for the facility.

3. Salem Frame Company has taken steps to correct the problems cited in the February 14, 2002 Notice of Violation. Salem Frame Company has contracted McGraw-Morgan Power Plant Contractors for additional repairs/upgrades that may be required to ensure compliance for the primary boiler system. The Contractor has made several recommendations and Salem Frame Company has proceeded with these recommendations.

Salem Frame Company has scheduled a Second Stack Emissions Test for August 27, 2002. DEECO, Inc. will be conducting this test. The following EPA test methods will be used: 1, 2, 3, 4, 5, and 9.

SECTION D: Agreement and Order

Accordingly the State Air Pollution Control Board, by virtue of the authority granted it pursuant to Va. Code §§10.1-1309 and 10.1-1316, and after consideration of the factors set forth in Va. Code § 10.1-1186.2, orders Salem Frame Company, and Salem Frame Company agrees, to perform the actions described below and in Appendices A and B of this Order. In addition, the Board orders Salem Frame Company, and Salem Frame Company voluntarily agrees to pay a civil charge of **\$2,380.00** in settlement of the violations cited in this Order.

1. **\$595.00** of this civil charge shall be paid within 30 days of the effective date of this Order. Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

The payment shall include Salem Frame Company's Federal ID number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

2. **\$1,785.00** of this civil charge shall be satisfied upon completion by Salem Frame Company of a Supplemental Environmental Project (SEP) pursuant to Virginia Code 10.1-1186.2 and as described in Appendix B of this Order.
3. The Department has the sole discretion to:
 - a. authorize SEP or any alternate SEP proposed by the Salem Frame Company;
 - b. determine whether the SEP, or alternate SEP, have been completed in a satisfactory manner.
4. Should the Department determine that the SEP, or alternate SEP, has not been completed in a satisfactory manner, the Department shall notify Salem Frame Company of such determination in writing. Within 30 days of such notification, Salem Frame Company shall pay the amount specified in Paragraph 2 above in accordance with the procedures specified in Paragraph 1 above.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Salem Frame Company, for good cause shown by Salem Frame Company, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Salem Frame Company by DEQ on February 14, 2002. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the Facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Salem Frame Company admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Salem Frame Company consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Salem Frame Company declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Salem Frame Company to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Salem Frame Company shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Salem

Frame Company shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Salem Frame Company shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:

- a. the reasons for the delay or noncompliance;
- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Salem Frame Company. Notwithstanding the foregoing, Salem Frame Company agrees to be bound by any compliance date, which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Salem Frame Company. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Salem Frame Company from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, Salem Frame Company voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 19th day of September, 2002.

Steve A. Dietrich for
Robert W. Burnley, Director
Department of Environmental Quality

Salem Frame Company voluntarily agrees to the issuance of this Order.

By: Timothy W. Garnett

Date: 9/19/02

Commonwealth of Virginia
City/County of _____

The foregoing document was signed and acknowledged before me this ____ day of _____, 2002, by _____, who is
(name)

_____ of Salem Frame Company, on behalf of the Company.
(title)

Notary Public

My commission expires: _____.

APPENDIX A

Salem Frame Company shall:

1. Within **30 days** from the effective date of the Order, submit to the DEQ accurate, up to date documentation demonstrating that all employees associated with the Wood-Fired Boiler System have been trained in O & M procedures.
2. Within **30 days** from the effective date of the order, submit to the DEQ, the Testing Protocol for an EPA Method 5 (Particulate Matter) Stack Emissions Test to demonstrate compliance with applicable regulations.
3. Within **60 days** from the effective date of the order, perform an EPA Method 5 (Particulate Matter) Stack Emissions Test to demonstrate compliance with applicable regulations.
4. Within **90 days** from the effective date of the order, submit to the DEQ, the Stack Emissions Test results for compliance review.
5. Within **90 days** from the effective date of the Order, submit to the DEQ accurate documentation demonstrating that a preventative maintenance plan has been implemented to establish good operating practices for the boiler systems.

APPENDIX B

SUPPLEMENTAL ENVIRONMENTAL PROJECT

1. The SEP to be performed by Salem Frame Company, Inc. is as follows:

SEP Project:

Upgrade of the existing open wood-particle storage facility to an enclosed storage facility. This project will result in a reduction of PM emissions to the atmosphere.

2. Salem Frame Company, Inc. shall submit a plan within thirty (30) days of the effective date of this Order. The plan should include the following:
 - a. specify the location of each proposed facility and/or upgrade;
 - b. include a construction schedule and itemized costs;
3. Salem Frame Company, Inc. shall begin implementation of the aforementioned SEP within thirty (30) days of receipt of the Department's approval of the plan.

4. The SEP shall be completed within the schedule specified in Section 2 and no later than **12 months** of the effective date of this order.
5. Salem Frame Company, Inc. certifies that they have not commenced performance of any of the aforementioned SEP prior to the identification of the violations cited in this Consent Order and the approval of the SEP by the Department.

Salem Frame Company, Inc.

6. The net cost of the SEP to Salem Frame Company, Inc. shall not be less than **\$1,785.00**. In the event that the final net cost of the SEP is less than this amount, Salem Frame Company, Inc. shall pay the remainder of the amount.

The remainder of the amount shall be paid within thirty (30) days of the project completion date to the Commonwealth of Virginia, in accordance with Paragraph D. 1. of this Order. Net costs shall mean the costs of the project minus any tax savings, grants and first-year operation cost reductions or other efficiencies.

7. Salem Frame Company, Inc. acknowledges that it is solely responsible for completion of the SEP. Any transfer of funds, tasks, or otherwise by Salem Frame Company, Inc. to a third party, shall not relieve Salem Frame Company, Inc. of its responsibility to complete the SEP as contained in this Order.
8. Salem Frame Company, Inc. shall provide the Department with written verification of completion or progress reports of the SEP by providing a work schedule showing a timetable for completion. The project completion or progress reports verification must be submitted to the Department on a quarterly basis, due the 10th day of each quarter. The first report shall be due within **30 days** of the effective date of the Order. The completion report shall be due no later than **12 months** of the effective date of the order.
9. Salem Frame Company, Inc. shall submit written verification to the Department in the form of a certified statement itemizing costs, invoices and proof of payment, or similar documentation of the final overall and net cost of the SEP within **thirty days** of the project completion date. For the purposes of this submittal, net costs can be either the actual final net costs or the projected net costs if such projected net costs statement is accompanied by a CPA certification or certification from Salem Frame Company, Inc.'s Chief Financial Officer concerning the projected tax savings, grants or first-year operation cost reductions or other efficiencies.
10. In the event that Salem Frame Company, Inc. publicizes the SEP or the results of the SEP, Salem Frame Company, Inc. shall state in a prominent manner that the project is part of a settlement for an enforcement action.

11. Documents to be submitted to the Department, other than the civil charge payment described in Section D of the Order, shall be sent to:

Robert W. Saunders
Department of Environmental Quality
West Central Regional Office
3019 Peters Creek Road
Roanoke, VA 24019